IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20/02/2003

CORAM

THE HONOURABLE MR. JUSTICE V.KANAGARAJ

Criminal Original Petition No.4828 of 2003

Subramaniam .. Petitioner

-Vs-

1. Vijaya

2. Jayalalitha,
minor rep. by mother
Vijaya

3. State, rep. by
The Sub-Inspector of Police,
Nerkuppai,
Thirupathur,
Sivaganga Dist. .. Respondents

Petition filed under Section 482 of the Criminal Procedure Code,
praying for the relief as stated therein.

For petitioner : Mr.K.Rajasekar

For respondents: Mr.O.Srinath,
Govt. Advocate for R.3.

:O R D E R

This petition has been filed praying to set aside the order
dated 1 0.10.2002 made in R.C.No.4 of 2002 by the Court of Additional Sessions
Judge cum Chief Judicial Magistrate, Sivaganga, thereby confirming the order
dated 26.11.2001 made in M.C.No.21 of 1997 by the Curt of Judicial Magistrate,
Thirupathur.

2. Today, when the above matter came up for admission before
this Court, in the presence of the learned counsel for the petitioner and the
learned Government Advocate taking notice on behalf of the third respondent
herein, it comes to be kn is a ma intenance petition filed by respondents 1
and 2, who are the mother and the minor daughter as against the petitioner
under Section 125 Cr.P.C. and the Court of Judicial Magistrate, Tirupathur,
in consideration of the facts and circumstances of the case and on a trial

held, has ultimately arrived at granting a sum of Rs.300/= per month in favour of the second petitioner from the date of the petition, that was on 28.5.1997, as per M.C. No.21 of 1997 and on revision, the Court of Additional sessions Judge-cum-Chief Judicial Magistrate, Sivaganga, has confirmed the said order passed by the Judicial Magistrate, thereby dismissing the revision filed before him, as a result of which, the petitioner has come forward to file the above petition under Section 482 Cr.P.C.

3. Today, this Court , testifying the validity of the petitioner having come forward to file this petition, is attracted towards Section 397(3) and 399(3) of the Criminal Procedure Code, wherein Section 39 7(3) recites as follows:
397. Calling for records to exercise of powers of revision:-
(1) ....
(2) ....

(3) If an application under this section has been made by any person either to the High Court or to the Sessions Judge, no further application by the same person shall be entertain by the other of them.

Section 399(3) recites,
399. Sessions Judge's powers of revision:-
(1) ....
(2) ....
(3) Where any application for revision is made by or on behalf of any person before the Sessions Judge, the decision of the Sessions Judge thereon in relation to such person shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court.

4. In both the above provisions of law, it has been very clearly envisaged that if an application is made either to the Court of Sessions or to the High Court, no further application by the same person shall be entertained by the other Court and that where an application for revision is made before the Court of Sessions, the decision of the Court of Sessions Judge thereof shall be final and no further proceeding by way of revision at the instance of such person shall be entertained by the High Court or any other Court. Needless to mention that under Section 482 Cr.P.C., a second revision cannot be entertained, and therefore, as decided in many cases in the past, it is only proper not to entertain the above petition and to dismiss the same at the stage of admission itself.

In result, this petition is not maintainable and the same is dismissed as such.

Index:Yes.
Internet : Yes.

To
The Sub-Inspector of Police,
Nerkuppai,

Thirupathur,
Sivaganga Dist.